

Attorney Docket #: E6026-490  
App. Serial No.: 10/825,517  
Art Unit: 3641  
Amendment: August 1, 2007

### REMARKS

This reply is responsive to the final office action mailed May 2, 2007 ("Office Action"). Applicant thanks the Examiner for allowance of claims 6 and 7. Independent claims 1, 15, 20, and 31 have been amended to incorporate the allowable subject matter of claim 6. Claims 5 and 18 have been canceled without prejudice or disclaimer. The pending claims are 1-4, 6-17, 19-23, 26, and 31-35. The claim objections and rejections are addressed below. No new matter is added. Entry of the amendments and reconsideration with a view towards allowance of all pending claims is respectfully requested.

### CLAIMS OBJECTIONS/REJECTIONS

#### Objections:

Claims 31 stands objected to for grammatical errors (Office Action, para. 2, p. 2). Claim 31 has been amended to overcome the objection. Applicant respectfully requests that the objection be withdrawn.

#### Rejections under 35 U.S.C. § 112:

Claims 15-19 stand rejected under 35 U.S.C. 112, first paragraph for failing to comply with the written description requirement regarding the use of the phrase "without bending." Independent claim 15 claim has been amended without prejudice or disclaimer to remove this phrase and overcome the rejection. Claims 16-19 depend from claim 15. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claims 1-5, 8-23, 26, and 31-35 stand rejected under 35 U.S.C. 112, second paragraph for use of the term rigid which the Examiner claims renders the claim indefinite for being a relative term. Applicant respectfully disagrees with this assertion as one skilled in the art would readily

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comprehend the difference in engineering terms between a rigid structure and a resilient/elastic structure based on common knowledge and the ordinary dictionary definition of the term. This is particularly true with respect to loaded chamber indicators wherein the prior art is replete with examples of both resilient/elastic spring-like indicators and rigid indicators. Nonetheless, Applicant has removed the term "rigid" by amendment from the pending claims containing that term without prejudice or disclaimer to expedite prosecution and place the application in condition for allowance. Withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 102(b) and § 103(a):**

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP 2143.02 (citing *In re Royka*, 490 F.2d 981 (CCPA 74)). Furthermore, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." MPEP 2143.02 (citing *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970)).

Claims 1, 9-20, and 31-35 stand rejected as being anticipated by United States Patent 2,145,328 to Walther ("Walther"). Claims 1, 15, 20, and 31 are independent and have been amended to incorporate the allowable subject matter of allowed claim 6. Accordingly, for the

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reasons presented below, this rejection is respectfully traversed based on these claim amendments.

Independent claims 1, 15, 20, and 31 have been similarly amended to adopt the allowable subject matter of claim 6 and require that the loaded chamber indicating element/lever is retained in the housing/slide by a horizontal surface of the indicating element mating with a bottom surface of the rear sight or trapping member (claim 31). Walther does not teach or fairly suggest such an indicating element as now recited in claims 1, 15, 20, and 31 which are distinguishable. Applicant notes that canceled claim 5 has been incorporated into claim 1 together with the allowable subject matter of claim 6. Canceled claim 18 has been incorporated into claim 15 together with the allowable subject matter of claim 6. Reconsideration and allowance of claims 1, 15, 20, and 31 based on at least the allowability of claim 6 is respectfully requested.

Furthermore, Applicant notes that claims 1, 15, 20, and 31 all require that the indicating element/lever contact the rim of the cartridge which signals a loaded chamber condition. By contrast, "element 9a" in Walther (*see* FIG. 5 therein), cited on page 4 of the Office Action as corresponding to the claimed indicating element, does not contact the rim of the cartridge. Instead, element 9a engages the extraction groove in the cartridge rim which is not surprising since Walther indicates that element 9a is in fact a cartridge extractor which grips and removes the spent cartridge casing from the chamber after the firearm is discharged (*see* Col. 2, lines 45-47). Thus Applicant's claims 1, 15, 20, and 31 do not read on Walther for this additional reason and are further distinguishable. Even *assuming arguendo* that extractor 9a of Walther is used as a loaded chamber indicator, Applicant's claimed indicator is advantageously displaced farther by

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contact with the cartridge rim and provides greater visual/tactile indication of a loaded chamber condition to a user.

Regarding claim 31, Applicant respectfully submits that Walther further does not teach or fairly suggest both an indicating lever and trapping member each having a horizontal surface and an adjoining sloping vertical surface. The Office Action fails to recite where these elements might possibly be found in Walther. Dependent claim 32 further distinguishes over Walther and defines the trapping member as being the rear sight. Dependent claim 33 further defines a gap between the first and second sloping vertical surfaces to allow for pivotal movement of the indicating lever. Dependent claim 34 further defines biasing member acting on the indicating lever to urge the front portion thereof towards the chamber. And dependent claim 35 further defines that the pivot point is located proximate to the rear end of the indicating lever.

In sum, reconsideration and allowance is respectfully requested for claims 1, 15, 20, and 31, and all of their dependent claims, based on the allowability of claim 6 and the additional reasons presented above.

Claims 1-5, 10-21, and 26 stand rejected as being anticipated by Luger (shown in Small Arms of the World). Claims 1, 15, and 20 are independent and have been amended to incorporate the allowable subject matter of allowed claim 6 as noted above. This rejection is therefore respectfully traversed based on the claim amendments. Luger does not teach or fairly suggest a means for retaining the indicating element/lever in the housing/slide including opposed horizontal surfaces as now claimed. Furthermore, the loaded chamber indicator in Luger is also a cartridge extractor like in Walther which does not contact the rim of the cartridge, as further required by claims 1, 15, and 20 and discussed above. The extractor in Walther engages the

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extraction groove of the cartridge resulting in less visual/tactile indicator of a loaded chamber condition to the user than Applicant's claimed invention.

In sum, independent claims 1, 15, and 20 are now believed to be allowable over Luger based on at least the allowability of claim 6 and for the additional reasons noted above. The claims dependent from claims 1, 15, and 20 are further believed to be allowable based on the allowability of the independent claims from which they depend. Reconsideration and allowance of these foregoing claims is respectfully requested.

Dependent claims 8, 22, and 23 stand rejected as being obvious under 35 U.S.C. §103(a) over Walther. Claim 8 is believed to be allowable based on the allowability of claim 1 from which it depends. Claims 22 and 23 are believed to be allowable based on the allowability of claim 20 from which they depend. For the same reasons presented above with respect to the anticipatory rejection of independent claims 1 and 20 over Walther, claims 8, 22, and 23 are believed to be allowable since Walther does not teach or suggest all the limitations of these claims. MPEP 2143.02 (citing *In re Royka*, 490 F.2d 981 (CCPA 74)). Reconsideration and allowance of dependent claims 8, 22, and 23 is respectfully requested.

### CONCLUSION

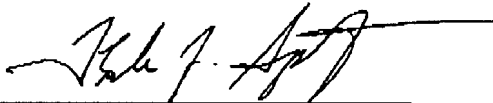
In view of the foregoing, Applicant respectfully requests entry of the amendments which place the application in condition for allowance. Reconsideration and allowance of all pending claims is therefore requested. If the Examiner disagrees with the allowability of the claims or if there are any remaining issues that may be resolved by telephone to expedite allowance, the

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Examiner is kindly requested to contact the Applicant's undersigned representative at  
215.979.1554.

Respectfully submitted,

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